



Yttrandefrihet, internationellt människorättsskydd och nationella domstolar

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”... the freedom of expression, enshrined in paragraph 1 of Article 10, constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'...” (t. ex. *Castells v. Spain*, 23.4.1992, § 42).

”The Convention is grounded on a certain political philosophy, namely that political democracy is the best system of Government for ensuring respect of fundamental freedoms and human rights.”

(Paul Mahoney, ”Marvellous Richness of Diversity or Individious Cultural Relativism”, HRLJ 1988, 1 at 3.)

106. In cases such as the present one, which require the right to respect for private life to be balanced against the right to freedom of expression, the Court considers that the outcome of the application should not, in theory, vary according to whether it has been lodged with the Court under Article 8 of the Convention by the person who was the subject of the article, or under Article 10 by the publisher. Indeed, as a matter of principle these rights deserve equal respect (...). Accordingly, the margin of appreciation should in theory be the same in both cases.

107. Where the balancing exercise has been undertaken by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for that of the domestic courts (...).

von Hannover v. Germany (No. 2), 7.2.2012.

”If you would allow me to draw a comparison, I sometimes see our courts as the soloists in the Concerto for Two Violins in D minor of Johann Sebastian Bach. In that Concerto the two solo parts intertwine, sometimes alternating the melodic line, carrying different tunes and rhythms, yet ultimately – and this is the important point – joining together and combining to produce a particularly harmonious piece. What a splendid example of musical dialogue!”

President Spielmann: Annual Report of the European Court of Human Rights 2014, 31, 38.



Turkiets författningsdomstol, 4.8.2016

”5. Meanwhile, it has been regulated by paragraph 1 of Article 3 of the Decree Law no. 667 that *”Continuation in the profession of those who are considered to be a member of, or have relation or contact with terrorist organizations or structure/entities, organizations or groups established by the national Security Council as engaging in activities against the national security of the State, shall be found to be unsuitable and their dismissal from the profession shall be decided by the absolute majority of the Plenary session of the Constitutional Court in so far as the members of the Constitutional Court are concerned...”*



”99. It will clearly harm the reliability and honour of the judiciary if the members, whose situations are assessed as such, continue to serve in the Constitutional Court, the main duty of which is to protect the democratic constitutional order and fundamental rights and freedoms.”



